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JAN 08 2007

In re Patent Application of  
FLICK  
Serial No. 09/993,930  
Filed: NOVEMBER 16, 2001

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CERTIFICATE OF FACSIMILE TRANSMISSION

I HEREBY CERTIFY that the foregoing correspondence has  
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1450 this 8th day of January, 2007.



JAN 08 2007

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:

**FLICK**

Serial No. 09/993,930

Confirmation No. 5501

Filing Date: NOVEMBER 16, 2001

For: REMOTE CONTROL SYSTEM FOR AN  
ACCESS DOOR HAVING REMOTE  
TRANSMITTER VERIFICATION

Examiner: M. SHIMIZU

Art Unit: 2635

Attorney Docket: 16107N

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

MS AF

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

Responsive to the Final Official Action of November 21, 2006, and in connection with the Notice of Appeal filed concurrently herewith, please consider the remarks set out below. Favorable reconsideration is respectfully requested.

**I. Claims 1-12 And 48-59 Are Patentable**

The Examiner rejected independent Claim 1 and its method counterpart, Claim 48, over the Heitschel et al. patent in view of the Lavelle et al. patent. The Heitschel et al. patent discloses a remote garage door operating system including a switch 22 that can be moved to a program position to learn a new uniquely coded remote transmitter into one of five available positions as designated by the setting of a rotary switch 23. As correctly noted by the Examiner, the Heitschel et al. patent fails to disclose at least one indicator, and, moreover, lacks the controller cooperating with the at least one indicator for indicating whether a new uniquely coded remote transmitter has been learned. The Examiner looks to the Lavelle et al. patent to supply these noted deficiencies of the Heitschel et al. patent.

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The Lavelle et al. patent discloses a programmable entry control system that may read a uniquely coded key in the form of a ROM chip. The device includes a programmer receptacle 60 that is used so that a key may be deleted or added. The Lavelle et al. patent recites: "[t]he LED 24 at the reader also indicates visually that the key has been entered into the system or changed or deleted." (Col. 6, lines 14-20).

The Examiner asserts that the combination of the Lavelle et al. and Heitschel et al. patents is motivated by a desire to prevent unnecessary transmitter operation, thus extending transmitter lifetime. More specifically, the Examiner contends that one skilled in the art would modify the Heitschel et al. patent's remote garage door system with the LED of the Lavelle et al. patent since it would enable the user of modified system to save battery life of the transmitter when initially programming it into the system as described in Column 3, lines 40-59 of the Heitschel et al. patent.

Applicant submits that there is no teaching in the Lavelle et al. patent, the Heitschel et al. patent, or any of the other prior art of record as to how learning a contact-readable ROM chip key has anything to do with a remote radio transmitter, much less imparts any power savings to the remote transmitter. Applicant also points out that the Heitschel et al. patent discloses the need to program the transmitter one time. Moreover, this transmitter programming occurs in the order of milliseconds. (Col. 3, lines 19-24 & Col. 4, lines 34-36). In essence, the Examiner is contending that the person of ordinary skill in the art will add the Lavelle et al. LED in the Heitschel et al. system in order to avoid wasting that split second of wasted transmission while programming the transmitter, an event that occurs only one time for each transmitter. Applicant submits that given the miniscule "battery life" saved by this selective modification of the prior art, the person of ordinary skill in the art would not make this combination as the Examiner proposes.

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Nevertheless, even if there was some proper motivation in the prior art to combine the disjoint teachings of the Heitschel et al. and Lavelle et al. patents in the manner suggested by the Examiner, the claimed invention as recited in independent Claim 1 is still not produced. Even the selective combination of the Heitschel et al. and Lavelle et al. patents fails to produce the claimed controller cooperating with the at least one indicator for indicating whether a new uniquely coded remote transmitter has been learned based upon the controller being switched to the door moving mode.

Indeed, the selective combination of the Heitschel et al. and Lavelle et al. patents would merely produce an instantaneous indication of a newly learned remote transmitter. Accordingly, the combination of cited references fails to produce the invention as recited in Claim 1, as the combination simply provides immediate confirmation that a key has been added or deleted.

Applicant notes that this same argument against the propriety of the Heitschel et al. and Lavelle et al. combination also applies similarly to the Examiner's rejection of independent Claims 13, 24, 29, 34, and 60. Therefore, independent Claims 1, 13, 24, 29, 34, 48, and 60 are patentable over the prior art.

## II. Claims 13-23 And 60-71 Are Patentable

The Examiner rejected independent Claim 13 and its method counterpart, Claim 60, over the Heitschel et al. patent in view of the Lavelle et al. patent. Independent Claim 13 recites at least one remote switch for causing the controller to cooperate with the at least one indicator for indicating whether a new uniquely coded remote transmitter has been learned.

Even the selective combination of the Heitschel et al. patent with the Lavelle et al. patent as discussed extensively above fails to produce the invention as recited in independent Claim 13 -- there is simply no remote switch in the combination of references for causing the

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controller to cooperate with the at least one indicator for indicating whether a new uniquely coded remote transmitter has been learned. Accordingly, independent Claims 13 and 60 are patentable over the prior art.

### **III. Claims 24-28 Are Patentable**

The Examiner rejected independent Claim 24 over the Heitschel et al. patent in view of the Lavelle et al. patent. Independent Claim 24 describes another embodiment and recites the controller cooperating with the at least one indicator for continuously indicating whether a new uniquely coded remote transmitter has been learned.

Even the selective combination of the Heitschel et al. patent with the Lavelle et al. patent proposed by the Examiner fails to produce the invention as recited in independent Claim 24, as there is simply no continuous indication of whether a new uniquely coded remote transmitter has been learned. Accordingly, independent Claim 24 is patentable over the prior art.

### **IV. Claims 29-33 Are Patentable**

The Examiner rejected independent Claim 29 over the Heitschel et al. patent in view of the Lavelle et al. patent. Independent Claim 29 recites that the controller cooperating with the at least one indicator for repeatedly indicating whether a new uniquely coded remote transmitter has been learned.

Again, even the selective combination of the Heitschel et al. patent with the Lavelle et al. patent fails to produce the invention as recited in independent Claim 29 as there is simply no repeating indication of whether a new uniquely coded remote transmitter has been learned. Hence, independent Claim 29 is patentable over the prior art.

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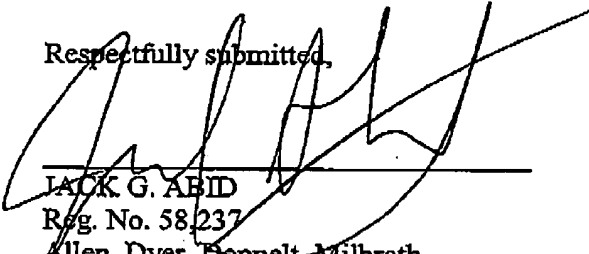
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**V. Claims 34-47 Are Patentable**

Independent Claim 34 recites that the controller cooperating with the at least one indicator for indicating that the learning mode has recently been exited. Even the selective combination of Heitschel et al. with Lavelle et al. fails to produce the invention as recited in independent Claim 34 as there is simply no indication of whether the learning mode has been exited.

Accordingly, independent Claims 1, 13, 24, 29, 34, 48, and 60 are patentable over the prior art. Their respective dependent claims, which recite yet further distinguishing features, are also patentable over the prior art and require no further discussion herein.

Respectfully submitted,



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